

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Pertaining to the
State Environmental Policy Act
Categorical Exemption
Thresholds for Minor New
Construction, Amending
Ordinance No's. 2534-01, 1348-
87 and 3272-12 (EMC Chapter
20.04), as Amended, and
Including a Special Public Notice
Procedure Amending Ordinance
No's. 3185-10 and 2530-01 (EMC
Chapter 15.24), as Amended

<u>9/28/16</u>	Briefing
<u> </u>	Proposed Action
<u> </u>	Consent
<u> </u>	Action
<u>9/28/16</u>	First Reading
<u>10/5/16</u>	Second Reading
<u>10/12/16</u>	Third Reading
<u>10/12/16</u>	Public Hearing
<u> </u>	Budget Advisory

COUNCIL BILL #
Originating Department
Contact Person
Phone Number
FOR AGENDA OF

CB 1609-38
Planning
Karen Stewart
(425) 257-7186
9/28/16
10/5/16
10/12/16

Initialed by:
Department Head
CAA
Council President

db
Am

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance	<u>Department(s) Approval</u> Legal, Planning
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Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

This ordinance amends the following chapters of the Everett Municipal Code: Chapter 20.04, Environmental Policy, and Chapter 15.24, Public Notice and Appeals. The amendments would raise the State Environmental Policy Act exempt levels for minor new construction up to the maximum levels defined in WAC 197-11-800(1)(d) for certain new residential structures, agriculture structures, non-residential structures, and stand-alone fill and excavation projects. Projects that would become exempt with this change will still be subject to public notice and a 14-day comment period.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Pertaining to the State Environmental Policy Act Categorical Exemption Thresholds for Minor New Construction, Amending Ordinance No's. 2534-01, 1348-87 and 3272-12 (EMC Chapter 20.04), as Amended, and Including a Special Public Notice Procedure Amending Ordinance No's. 3185-10 and 2530-01 (EMC Chapter 15.24), as Amended.



ORDINANCE NO. _____

An Ordinance Pertaining to the State Environmental Policy Act Categorical Exemption Thresholds for Minor New Construction, Amending Ordinance No's. 2534-01, 1348-87 and 3272-12 (EMC Chapter 20.04), as Amended, and Including a Special Public Notice Procedure Amending Ordinance No's. 3185-10 and 2530-01 (EMC Chapter 15.24), as Amended.

WHEREAS, specified levels of minor new construction are exempt from review under the State Environmental Policy Act (SEPA), chapter 43.21C RCW, pursuant to Washington Administrative Code (WAC) 197-11-800; and

WHEREAS, the State Legislature amended the State Environmental Policy Act in 2012 to allow jurisdictions to raise SEPA exempt levels for minor new construction up to the maximum levels defined in WAC 197-11-800(1)(d); and

WHEREAS, WAC 197-11-800(1)(c) allows jurisdictions the option of adopting the maximum exempt thresholds in WAC 197-11-800(1)(d) in their own municipal codes; and

WHEREAS, Everett Municipal Code Section 20.04.130 specifies the SEPA exemption threshold levels adopted by the city for minor new construction; and

WHEREAS, Everett Municipal Code Chapter 15.24 specifies the public notice process; and

WHEREAS, currently the exemption thresholds for minor new construction in EMC 20.04.130 for residential structures, agriculture structures, non-residential structures, and fill and excavation projects are less than permitted under WAC 197-11-800(1)(d); and

WHEREAS, since the city of Everett established its existing SEPA categorical exemption thresholds in 1987, it has significantly improved its protection of environmental resources and mitigation of impacts through adoption of GMA-consistent development regulations, including critical area regulations; and

WHEREAS, compliance with city of Everett development regulations is determined during project review and required for all proposed development activity, including minor new construction, independent of SEPA review; and

WHEREAS, compliance with city of Everett development regulations for minor new construction proposals constitutes adequate analysis and mitigation of the specific environmental impacts; and

WHEREAS, the proposed amendment will still require that public notice with a comment period be provided for projects that meet the minimum SEPA thresholds and are exempted from the SEPA review process because of the higher thresholds; and

WHEREAS, the City of Everett Planning Commission has reviewed the proposed amendments to Everett Municipal Code Chapter 20.04, Environmental Policy and Chapter 15.24, Public Notice and Appeals at a public workshop held on May 17, 2016; and

WHEREAS, the Planning Commission held a public hearing on July 19, 2016 to receive public testimony concerning the proposed code amendments contained in this ordinance; and

WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning Commission voted to unanimously recommend approval of the code amendments contained in this ordinance as set forth in its Resolution No. 16-09; and

WHEREAS, on October 12, 2016, the Everett City Council held a public hearing after proper notice, and considered public comments and the entire record related to the proposal contained in this ordinance; and

WHEREAS, following the public hearing, the Everett City Council deliberated on the proposal contained in this ordinance and adopts the following findings in support of this ordinance:

1. The foregoing recitals are adopted as findings or conclusions as if set forth in full herein.
2. The proposed amendments are consistent with WAC 197-11-800(1).
3. The proposed code amendments meet the following requirements listed in WAC 197-11-800(c) which are necessary to raise the exempt levels:
 - a. Provide documentation that the requirements for environmental analysis, protection, and mitigation for impacts to elements of the environment have been adequately addressed for the development exempted.
 - b. Describe the notice and comment opportunities for the public, affected tribes, and agencies regarding permitting of development projects included in the increased exemption levels.
 - c. Before adopting the ordinance, provide a minimum of sixty day notice to affected tribes, agencies with expertise, affected jurisdictions, the Washington State Department of Ecology, and the public and provide an opportunity for comment.
 - d. Provide documentation describing how specific adopted development regulations and applicable state and federal laws provide adequate protections for cultural and historic resources when exemption levels are raised.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 13 of Ordinance No. 1348-87, as amended by Section 3B of Ordinance No. 2534-01 (EMC Chapter 20.04 Article III. Categorical Exemptions, Section 20.04.130), which reads as follows:

20.04.130 Flexible thresholds for categorical exemptions.

The following exempt levels are established for minor new construction under WAC 197-11-800(1)(b) based on conditions in the city:

- A. For residential dwelling units in WAC 197-11-800(1)(b)(i): up to four dwelling units;
- B. For agricultural structures in WAC 197-11-800(1)(b)(ii): up to ten thousand square feet;
- C. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to four thousand square feet and up to twenty parking spaces;
- D. For parking lots in WAC 197-11-800(1)(b)(iv): up to twenty parking spaces;
- E. For landfills and excavations in WAC 197-11-800(b)(v): up to five hundred cubic yards.

Is hereby amended to read as follows:

20.04.130 ~~Flexible thresholds for e~~Categorical exemptions—Minor new construction.

A. The following exempt levels are established for minor new construction under WAC ~~197-11-800(1)(b)~~ based on conditions in the city. ~~The exemptions in this subsection apply to all licenses required to undertake the construction in question. The exemptions in this subsection apply except when the project:~~

(1) is undertaken wholly or partly on lands covered by water;

(2) requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;

(3) requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8);

(4) involves demolition of a contributing structure listed in a local, state or national historic register; or

(5) requires a land use decision that is not exempt under WAC 197-11-800(6).

B. The following types of projects shall be exempt:

~~A.1. For residential dwelling units in WAC 197-11-800(1)(d)(b)(i): The construction or location of no more than four (4) thirty (30) single-family dwelling units.;~~

~~2. The construction or location of no more than sixty (60) multi-family dwelling units.~~

~~B.3. For agricultural structures in WAC 197-11-800(1)(b)(ii): up to The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering no more than forty ten-thousand (40,000) square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.;~~

~~C.4. For The construction of an office, school, commercial, recreational, service or storage buildings with no more than thirty thousand (30,000), in WAC 197-11-800(1)(db)(iii): up to four thousand-square feet of gross floor area and with associated parking facilities designed for no more than up to twenty-ninety (90) automobiles. parking spaces; This exemption includes parking lots for no more than ninety (90) automobiles not associated with a structure.~~

~~D. For parking lots in WAC 197-11-800(1)(b)(iv): up to twenty parking spaces;~~

~~E. 5. For Any land fills or and excavations of no more than in WAC 197-11-800(b)(v): up to one thousand (1,000) five hundred cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (1), (2), (3), or (4) of this subsection.~~

C. Public Notice.

Development proposals that are categorically exempt under subsection A but exceed the minor new construction minimum thresholds set forth in WAC 197-11-800(1)(b) shall provide notice as specified in EMC 15.24.080.F.

Section 2. Section 1 of Ordinance No. 3272-12 (EMC Chapter 20.04 Article III. Categorical Exemptions, Section 20.04.140), which reads as follows:

20.04.140 Categorical exemptions—Infill development.

A. The following exempt levels are established for new construction under RCW 43.21C.229, for land located within the E-1 MUO (mixed-use overlay) zone:

1. Residential use and its required off-street parking: up to one hundred dwelling units;
2. Commercial use within a mixed-use building including eight or more residential dwelling units, and the required off-street parking: up to fifteen thousand square feet.

B. Review Process. Development proposals that meet the categorical exemption thresholds stated in subsection A of this section that exceed the city SEPA thresholds for categorical exemption as specified in Section 20.04.130 shall be subject to Review Process II as specified in Chapter 15.20; provided, however, that environmental review under SEPA is not required. The city shall provide notice of the proposed development application as required by Review Process II.

Is hereby amended to read as follows:

20.04.140 Categorical exemptions—Infill development.

A. The following exempt levels are established for new construction under RCW 43.21C.229, for land located within the E-1 MUO (mixed-use overlay) zone:

1. Residential use and its required off-street parking: up to one hundred dwelling units;
2. Commercial use within a mixed-use building including eight or more residential dwelling units, and the required off-street parking: up to ~~fifteen~~thirty thousand square feet.

B. Review Process. Development proposals that meet the categorical exemption thresholds stated in subsection A of this section that exceed the city SEPA thresholds for categorical exemption as specified in Section 20.04.130 shall be subject to Review Process II as specified in Chapter 15.20; provided, however, that environmental review under SEPA is not required. The city shall provide notice of the proposed development application as required by Review Process II.

Section 3. Chapter 6 Section 2B of Ordinance No. 2530-01, as amended by Section 2 of Ordinance No. 3185-10 (EMC Chapter 15.24 Article II. Public Notice and Public Comment Periods), which reads as follows:

15.24.080 Review Process II—Administrative decisions.

Public notice shall include notice of application and notice of decision. Public notice of the notice of application shall be provided by:

- A. Posting notice on or near the property with two signs no less than twenty-four inches by thirty-six inches in size, as specified by Section 15.24.190;
- B. Posting additional signs if the project is a linear project, as specified by Section 15.24.190;
- C. Mailing notice to owners of property located within one hundred fifty feet of the subject property;
- D. Mailing notice to the SEPA mailing list (unless the project is categorically exempt); and

E. Mailing notice to the neighborhood leader mailing list if applicable.

Is hereby amended to read as follows:

15.24.080 Review Process II—Administrative decisions.

Public notice shall include notice of application and notice of decision. Public notice of the notice of application shall be provided by:

- A. Posting notice on or near the property with two signs no less than twenty-four inches by thirty-six inches in size, as specified by Section 15.24.190;
- B. Posting additional signs if the project is a linear project, as specified by Section 15.24.190;
- C. Mailing notice to owners of property located within one hundred fifty feet of the subject property;
- D. Mailing notice to the SEPA mailing list (unless the project is categorically exempt); and
- E. Mailing notice to the neighborhood leader mailing list if applicable.

F. For applications that require public notice under EMC Section 20.04.130, public notice shall be provided by posting two signs no less than twenty-four inches by thirty-six inches on or near the property. The signs shall contain the information specified in Section 15.24.190 C.

Section 4. Severability. Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 6. Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section 7. General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance

that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Ray Stephanson, Mayor

ATTEST:

CITY CLERK

Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Maximum SEPA Categorical Exemption Thresholds

Section of 2012 Rules WAC 197-11-800(1)(d)

Project Types	Cities and UGA	Existing City of Everett
Residential	30 SF units; 60 MF units	4 dwelling units Evergreen Way mixed use overlay: up to 100 du*
Agriculture Structures	40,000 sq. ft.	10,000 sq. ft.
Non residential	30,000 sq. ft.	4,000 sq. ft. Evergreen Way mixed use overlay: 15,000 sq. ft. mixed use development with ≥8 du*
Parking	90 stalls	20 stalls
Fill or Excavation	1,000 cubic yards	500 cubic yards

*Maximums for Evergreen Way mixed use overlay (E-1 MUO zone) including required off-street parking

Summary of City of Everett Regulations Addressing SEPA Elements

July 15, 2016

City of Everett and WA State Regulations	
SEPA Element	
EARTH	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan consistent with Chapter 36.70A RCW; Shoreline Master Program, Conservation Element consistent with RCW 43.21C and Chapter 173-26 WAC Shoreline Use Element Policies and Regulations; Everett Municipal Code (EMC) Chapter 37-Critical Areas specifically Section 37.080 geologically hazardous areas; EMC Title 19 Zoning; NPDES Permit; City of Everett Design and Construction Standards and Specifications for Development.
AIR	Sections 15.16.060 and 15.16.090 EMC; Construction and demolition must comply with the Puget Sound Clean Air Agency requirements.
WATER	Sections 15.16.060 and 15.16.090 EMC; Chapter 30 EMC Floodplain Overlay Districts and Regulations; development consistent with Flood Insurance Rate Maps. 2015 Comprehensive Plan; Shoreline Master Program Shoreline Use Element Policies and Regulations, especially Conservation Element and Shoreline Element; City of Everett Stormwater Management Manual for Western Washington; NPDES Permit; City of Everett Design and Construction Standards and Specifications for Development.
PLANTS/ANIMALS	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Conservation Element Shoreline Use Element Policies and Regulations, Implementation Element; Everett Municipal Code (EMC) Chapter 37-Critical Areas; City of Everett Design and Construction Standards and Specifications for Development.
ENERGY/NATURAL RESOURCES	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Shoreline Use Element Policies and Regulations; EMC Chapter 37 —Critical Areas.
ENVIRONMENTAL HEALTH	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Shoreline Use Element Policies and Regulations, Shoreline Restoration Element; EMC Chapter 37 —Critical Areas; NPDES Permit; EMC Title 19 Zoning, Floodplain Overlay Zone and Watershed-Resource Management Zone; EMC Chapter 39 General Provisions for vehicle storage, hazardous waste treatment and storage facilities, garbage receptacles, dumpsters and recycle bins.
NOISE	Sections 15.16.060 and 15.16.090 EMC; EMC Chapter 20.08--Noise Control; Shoreline Master Program, Shoreline Use Element Policies and Regulations; EMC Title 19 Zoning.
LAND/SHORELINE USE	Sections 15.16.060 and 15.16.090 EMC; FEMA approved Door 2 jurisdiction. 2015 Comprehensive Plan; Shoreline Master Program Shoreline Use Element Policies and Regulations; EMC Chapter 37—Critical Areas; EMC Title 19 Zoning, Development Standards and Design Standards, Sustainable Building Practices.

HOUSING	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Shoreline Use Element; EMC Chapter 37—Critical Areas; EMC Title 19 Zoning, Development Standards and Design Standards; EMC Chapter 6 Development Standards Table; EMC Chapter 15 Multiple-Family Development Standards; EMC Chapter 15A Unit Lot Subdivisions.
AESTHETICS	Sections 15.16.060 and 15.16.090 EMC; Section 19.38.050 EMC Historic Buildings; Section 15.090 EMC Façade and roofline variation; EMC Chapter 6 Development Standards Table; Design Review Guidelines 19.22.030 EMC, 27.020 and 28.010; EMC Chapter 31 Design Overlay Zone, design zones include B-3, BMU, C-2ES, E-1 and MUO; EMC Chapter 36 Signs; EMC Chapter 35 Landscaping and Screening Requirements.
LIGHT/GLARE	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program design standards; EMC Chapter 31 Design Overlay Zone; EMC Chapter 37—Critical Areas; Maximum Building Heights for most zones.
RECREATION	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Recreation Element and Public Access Element; EMC Chapter 37—Critical Areas; EMC Section 15.050 On-site recreation facility requirements; 2016 Parks, Recreation and Open Space Plan.
PUBLIC SERVICES	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan Capital Facilities Plan; Shoreline Master Program, shoreline uses and modification policies and regulations; EMC Chapter 37—Critical Areas; Water and Sanitary Sewer Comprehensive Plans; EMC Chapter 18.44 School District Impact Fees; City of Everett Design and Construction Standards and Specifications for Development.
HISTORIC/CULTURAL	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Cultural Resources Element; EMC Chapter 37—Critical Areas; EMC Chapter 33 Historic Overlay Zone addresses historic sites, historic structures and historic districts; Section 19.38.050 EMC Historic Buildings; EMC Chapter 2.96 Historic Resources.
TRANSPORTATION	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan Transportation Improvement Program; Shoreline Master Program, Circulation Element; City of Everett Design and Construction Standards and Specifications for Development; EMC Chapter 37—Critical Areas; EMC Chapter 18.36 Small Project Impact Fee; Chapter 18.40 Transportation Mitigation.
UTILITIES	Sections 15.16.060 and 15.16.090 EMC; 2015 Comprehensive Plan; Shoreline Master Program, Shoreline utility regulations; EMC Chapter 37—Critical Areas; City of Everett Design and Construction Standards and Specifications for Development.



PLANNING COMMISSION RESOLUTION NO. 16-09

A RESOLUTION Revising Regulations Pertaining to the State Environmental Policy Act and Recommending Amendments to Everett Municipal Code Chapter 20.04, Environmental Policy and Chapter 15.24, Public Notice and Appeals

WHEREAS, specified levels of minor new construction are exempt from review under the State Environmental Policy Act (SEPA), chapter 43.21C RCW, pursuant to Washington Administrative Code (WAC) 197-11-800; and

WHEREAS, the State Legislature amended the State Environmental Policy Act in 2012 to allow jurisdictions to raise SEPA exempt levels for minor new construction up to the maximum levels defined in WAC 197-11-800(1)(d); and

WHEREAS, Everett Municipal Code (EMC) section 20.04.130 specifies the SEPA exemption threshold levels adopted by the city for minor new construction and Chapter 15.24 specifies the public notice process; and

WHEREAS, currently the exemption thresholds for minor new construction in EMC 20.04.130 for residential structures, agriculture structures, non-residential structures, and fill and excavation projects are less than permitted under WAC 197-11-800(1); and

WHEREAS, Snohomish County and most cities in the County have adopted the maximum SEPA exemption thresholds; and

WHEREAS, since the City of Everett established its existing SEPA categorical exemption thresholds in 1987, it has significantly improved its protection of environmental resources and mitigation of impacts through adoption of GMA-consistent development regulations, including critical area regulations; and

WHEREAS, the proposed amendment will still require that public notice with a comment period be provided for projects that meet the minimum SEPA thresholds and are exempted from the SEPA review process because of the higher thresholds; and

WHEREAS, the Planning Commission of the City of Everett has reviewed the proposed amendments to Everett Municipal Code Chapter 20.04, Environmental Policy and Chapter 15.24, Public Notice and Appeals and finds that:

1. The proposed amendment is consistent with WAC 197-11-800(1); and
2. Impacts from development will be addressed through City of Everett development regulations and detailed design standards with the City authority to impose mitigation as permit conditions without a SEPA threshold determination; and

3. The proposed amendment will reduce the time, effort and expense to process land use permits for minor new construction as defined in WAC 197-11-800(1)(c).

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the City Council adopt the amendments to Everett Municipal Code Chapter 20.04, Environmental Policy and Chapter 15.24, Public Notice and Appeals, a copy of which is attached hereto as Exhibit A and incorporated herein as if fully set forth.

PASSED and APPROVED this 19th day of July, 2016.



Planning Commission Chair



Planning Commission Secretary

For: Commissioner Lark, Commissioner Zelinski, Commissioner Jordison, Commissioner Sand, Commissioner Tisdell, and Chair Holland

Against: None

Absent: Commissioner Dunn, Commissioner Beck, and Commissioner Adams

Abstain: None

EXHIBIT A

Article III. Categorical Exemptions

20.04.130 Categorical exemptions—Minor new construction.

A. The following exempt levels are established for minor new construction under WAC [197-11-800](#)(1)(c) based on conditions in the city. The exemptions in this subsection apply to all licenses required to undertake the construction in question. The exemptions in this subsection apply except when the project:

- (1) is undertaken wholly or partly on lands covered by water;
- (2) requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;
- (3) requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800(7) or (8);
- (4) involves demolition of a contributing structure listed in a local, state or national historic register; or
- (5) requires a land use decision that is not exempt under WAC 197-11-800(6).

B. The following types of projects shall be exempt:

1. The construction or location of no more than thirty (30) single-family dwelling units.
2. The construction or location of no more than sixty (60) multi-family dwelling units.
3. The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering no more than forty thousand (40,000) square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.
4. The construction of an office, school, commercial, recreational, service or storage building with no more than thirty thousand (30,000) square feet of gross floor area and with associated parking facilities designed for no more than ninety (90) automobiles. This exemption includes parking lots for no more than ninety (90) automobiles not associated with a structure.
5. Any fills or excavations of no more than one thousand (1,000) cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (1), (2), (3), or (4) of this subsection.

C. Public Notice.

Development proposals that are categorically exempt under subsection A but exceed the minor new construction *minimum* thresholds set forth in WAC 197-11-800(1)(b) shall provide notice as specified in EMC 15.24.080.F.

20.04.140 Categorical exemptions—Infill development.

A. The following exempt levels are established for new construction under RCW [43.21C.229](#), for land located within the E-1 MUO (mixed-use overlay) zone:

1. Residential use and its required off-street parking: up to one hundred dwelling units;
2. Commercial use within a mixed-use building including eight or more residential dwelling units, and the required off-street parking: up to thirty thousand square feet.

B. Review Process.

Development proposals that meet the categorical exemption thresholds stated in subsection A of this section that exceed the city SEPA thresholds for categorical exemption as specified in Section 20.04.130 shall be subject to Review Process II as specified in Chapter 15.20; provided, however, that environmental review under SEPA is not required. The city shall provide notice of the proposed development application as required by Review Process II.

15.24.080 Review Process II—Administrative decisions.

Public notice shall include notice of application and notice of decision. Public notice of the notice of application shall be provided by:

- A. Posting notice on or near the property with two signs no less than twenty-four inches by thirty-six inches in size, as specified by Section 15.24.190;
- B. Posting additional signs if the project is a linear project, as specified by Section 15.24.190;
- C. Mailing notice to owners of property located within one hundred fifty feet of the subject property;

- D. Mailing notice to the SEPA mailing list (unless the project is categorically exempt);
and
- E. Mailing notice to the neighborhood leader mailing list if applicable.
- F. For applications that require public notice under Section 20.04.130, public notice shall be provided by posting two signs no less than twenty-four inches by thirty-six inches on or near the property. The signs shall contain the information specified in Section 15.24.190C.



Memo

To: City of Everett Planning Commission
From: Karen Stewart, AICP, Environmental Planner
Date: July 18, 2016
Subject: SEPA flexible exemptions – Proposed Zoning Code Amendment

Many jurisdictions fully planning under GMA are choosing to raise SEPA exempt levels for minor new construction up to the maximum allowed by state law [WAC 197-11-800(1)(d)]. Snohomish County and the cities of Marysville, Mukilteo, Lynnwood, Mill Creek, Mountlake Terrace and Edmonds have all adopted the state allowed maximum thresholds, although Edmonds maintained 500 cubic yards for fill or excavations as the maximum threshold for exempting a SEPA review.

The following table provides the maximum thresholds allowed and compares them to the existing categorical exemption thresholds found in Everett's Land Use Code section 20.04.130 EMC.

Project Types	Cities and UGA	Existing City of Everett
Residential	30 SF units; 60 MF units	4 dwelling units
Agriculture Structures	40,000 sq. ft.	10,000 sq. ft.
Non residential	30,000 sq. ft.	4,000 sq. ft.
Parking	90 stalls	20 stalls
Fill or Excavation	1,000 cubic yards	500 cubic yards

As an incentive for infill development consistent with RCW 43.21C.229 and the Evergreen Way Revitalization Plan, in 2012 Everett increased categorical exemption thresholds for residential and commercial development in the Evergreen Way mixed use overlay (E-1 MUO). The motivation was to reduce the time required to process land use permits for development that is encouraged by the comprehensive plan. The current categorical exemption for infill development within the city's E-1 mixed-use overlay zone is up to one hundred dwelling units with required off-street parking. Commercial uses up to 15,000 square feet within a mixed-use building providing eight or more dwelling units and required off-street parking are also exempt from SEPA.

Now we propose to raise across all zoning districts SEPA categorical exemptions for minor new construction to the maximum allowed thresholds for residential, non residential, agriculture structures, parking, and fills or excavations. To be consistent in the E-1 MUO zoned areas, the threshold for commercial uses would be raised from 15,000 to 30,000 square feet.

Public Notice of Pending Actions

The question of what notice, if any, shall apply when the project falls below the SEPA exemption levels and no other land use process requires public notice was discussed by the Planning Commission at your workshop on May 17, 2016. At that meeting, the majority of the Commissioners appeared to prefer public notice provided by posting signs at the site describing the proposed development action and providing a 14-day comment period. Consistent with this direction, the proposed code amendments were drafted to ensure that development proposals currently subject to SEPA and above the minimum thresholds set forth in state law will continue to be publically noticed with a comment period even if the exemption thresholds are raised.

In addition, it should be noted that current code provisions in Title 15 give the City authority to impose mitigation as permit conditions without a SEPA threshold determination, as provided below:

15.16.060 Action taken.

A. For all Review Process I Applications. If proposed actions that fall into the category of Review Process I are subject to other regulations, including any regulations of other agencies, issuance of a permit by the city does not excuse the applicant of the requirement to obtain all other required permits and approvals prior to initiating construction of the project. Action taken on the application shall be one of the following:

1. Permit issuance or approval, *which may include conditions on the project; (emphasis added)*
2. Permit denial explaining the reasons the permit was not approved; or
3. A letter explaining what additional information is necessary or other approvals which are required before the permit can be issued.

An administrative appeal to the examiner is provided. Any appeals shall be in accordance with the appeals section of this title.

Requested Action

The proposed code changes (in track changes format) are attached for your review and consideration for approval at a public hearing on Tuesday, July 19, 2016. To facilitate Planning Commission action, staff has prepared a resolution recommending amendments to Everett Municipal Code Chapter 20.04, Environmental Policy and Chapter 15.24, Public Notice and Appeals.

Article III. Categorical Exemptions

20.04.130 ~~Flexible thresholds for c~~Categorical exemptions—Minor new construction.

A. The following exempt levels are established for minor new construction under WAC 197-11-800(1)(bc) based on conditions in the city. The exemptions in this subsection apply to all licenses required to undertake the construction in question. The exemptions in this subsection apply except when the project:

- (1) is undertaken wholly or partly on lands covered by water;
- (2) requires a license governing discharges to water that is not exempt under RCW 43.21C.0383;
- (3) requires a license governing emissions to air that is not exempt under RCW 43.21C.0381 or WAC 197-11-800 (7) or (8); ;
- (4) involves demolition of a contributing structure listed in a local, state or national historic register; or
- (5) requires a land use decision that is not exempt under WAC 197-11-800(6).

B. The following types of projects shall be exempt:

A.1. For residential dwelling units in WAC 197-11-800(1)(d)b(i): The construction or location of no more than thirty (30) single-family dwelling units;.

2. The construction or location of no more than sixty (60) multi-family dwelling units.

B.3. For agricultural structures in WAC 197-11-800(1)(b)(ii): up to The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering no more than forty ten thousand (40,000) square feet and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots;.

C.4. For The construction of an office, school, commercial, recreational, service or storage buildings with no more than thirty thousand (30,000), in WAC 197-11-800(1)(db) (iii): up to four thousand square feet of gross floor area and with associated parking facilities designed for no more than up to twenty ninety (90) automobiles. parking spaces; This exemption includes parking lots for no more than ninety (90) automobiles not associated with a structure.

D. For parking lots in WAC 197-11-800(1)(b)(iv): up to twenty parking spaces;

E. 5. For Any land fills or and excavations of no more than in WAC 197-11-800(b)(v): up to one thousand (1,000) five hundred cubic yards throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (1), (2), (3), or (4) of this subsection. (Ord. 2534-01 § 13, 2001; Ord. 1348-87 § 3B, 1987)

C. Public Notice.

Development proposals that are categorically exempt under subsection A but exceed the minor new construction minimum thresholds set forth in WAC 197-11-800(1)(b) shall provide notice as specified in EMC 15.24.080.F.

20.04.140 Categorical exemptions—Infill development.

A. The following exempt levels are established for new construction under RCW 43.21C.229, for land located within the E-1 MUO (mixed-use overlay) zone:

— 1. Residential use and its required off-street parking: up to one hundred dwelling units;

2. Commercial use within a mixed-use building including eight or more residential dwelling units, and the required off-street parking: up to ~~fifteen~~ thirty thousand square feet.

B. Review Process. Development proposals that meet the categorical exemption thresholds stated in subsection A of this section that exceed the city SEPA thresholds for categorical exemption as specified in Section 20.04.130 shall be subject to Review Process II as specified in Chapter 15.20; provided, however, that environmental review under SEPA is not required. The city shall provide notice of the proposed development application as required by Review Process II.

15.24.080 Review Process II—Administrative decisions.

Public notice shall include notice of application and notice of decision. Public notice of the notice of application shall be provided by:

A. Posting notice on or near the property with two signs no less than twenty-four inches by thirty-six inches in size, as specified by Section 15.24.190;

B. Posting additional signs if the project is a linear project, as specified by Section 15.24.190;

- C. Mailing notice to owners of property located within one hundred fifty feet of the subject property;
- D. Mailing notice to the SEPA mailing list (unless the project is categorically exempt); and
- E. Mailing notice to the neighborhood leader mailing list if applicable.
- F. For applications that require public notice under Section 20.04.130, public notice shall be provided by posting two signs no less than twenty-four inches by thirty-six inches on or near the property. The signs shall contain the information specified in Section 15.24.190C.